

Please enter the following amendments and remarks:

### **STATUS OF THE CLAIMS**

Claims 1-31 are pending in the Application.

Claims 1-31 stand rejected by the Examiner.

Claims 1 and 14-31 have been amended, without prejudice, herein.

### **REMARKS**

Reconsideration of the present Application is respectfully requested.

### **Amendments to the Claims**

Applicant respectfully submits that the number of claims, as originally filed in the present Application, was 31. Applicant has amended the claim numbering to accurately reflect the actual number of claims as originally filed, and thus pending in this Application.

### **Claim Rejections Pursuant to 35 U.S.C. §102(e)**

Claims 1-31 have been rejected under 35 U.S.C. §102(e) as being anticipated by Hui (U.S. Patent No. 6,589,267). Applicant respectfully traverses this rejection for at least the following reasons.

35 U.S.C. §102(e) recites:

A person shall be entitled to a patent unless-

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention

by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Consequently, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

*See, M.P.E.P. §2131 citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).*

Applicant respectfully submits that the present Office Action does not explain how the cited reference teaches each of the limitations of the present invention as claimed in independent Claims 1, 14, 20 and 27. The present Office Action only asserts that Hui discloses "an occlusion sensing means for detecting blood flow past a pressure cuff (208); and a processor (202) instructs said source valve (248) to increase the pressure in the pressure cuff (208) when the occlusion sensing detects blood flow past the pressure cuff (208)" (Present Office Action, page 2, point 2).

Applicant submits that the present Office Action lumps all of Claims 1-31 into a single rejection and does not even address all of the elements of independent Claims 1, 14, 20 and 27, and further, virtually none of the elements added via a dependent claim. For example, regarding Claims 1, 14, and 20, the present Office Action does not state where Hui discloses the ***occlusion sensing means***, or ***flow sensor***, as recited in the Claims, respectively. Rather, the rejection only points to a pressure cuff 208. Regarding Claim 27, the present rejection makes no mention of a pressure cuff including a photometric sensor to

measure blood oxygen saturation, as recited by the Claim. Further, none of the limitations added in the dependent claims are addressed by the present Office Action. Because the present Office Action lumps all of Claims 1-31 into a single rejection, and further does not address many of the elements found in both the independent and dependent claims, this rejection is an omnibus rejection and uninformative to Applicant. Applicant notes that such improperly expressed rejections are to be avoided (MPEP 707.07(d)). Applicant further notes that piecemeal examination is also to be avoided as much as possible (MPEP 707.07(g)).

Regarding the disclosure of Hui, cuff 208 is nothing more than an inflatable/deflatable cuff device, and does not contain any sort of sensor or flow sensing means. In fact, the only sensors disclosed in Hui are for measuring Cardiac function remote from the occluded limb.

As each of the claims requires the presence of a flow occlusion sensor, such element is not disclosed in the asserted references, Applicant believes that Hui does not anticipate any claim of the application.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(e) rejections of Claims 1, 14, 20 and 27, as Hui fails to teach the invention recited therein. Further, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. 102(e) rejections of Claims 2-13, 15-19, 21-26 and 28-31, as these Claims ultimately depend from a patentably distinct independent base Claim 1, 14, 20 or 27.

**CONCLUSION**

Wherefore, Applicant believes he has addressed all outstanding grounds raised by Examiner and respectfully submits that the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully Submitted,

**REED SMITH LLP**

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A handwritten signature in cursive script, appearing to read 'C.H. Pierce', is written over a horizontal line.

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